

REMARKS

Claims 20-31 and 33-52 are currently pending. Claim 32 has been canceled. Claims 26, 30, 31, 37, and 52 have been amended without prejudice or acquiescence in order to advance prosecution of the instant application. Applicants note that the Examiner has stated that claims 20-29, 32, and 42-51 contain allowable subject matter.

The issues outstanding in this application are as follows:

- The Examiner has rejected claims 31 and 33-41 under 35 USC § 112, first paragraph, as allegedly lacking adequate written description.
- The Examiner has rejected claims 30 and 52 under 35 USC § 112, first paragraph, as allegedly lacking adequate written description.

Rejections under 35 USC § 112, first paragraph

(i) Claims 31 and 33-41

The Examiner has rejected claims 31 and 33 to 41 as allegedly lacking adequate written description due to the presence of the expression "cell division gene" in claim 31. In order to facilitate prosecution, claim 31 has been amended without prejudice or acquiescence to specify that the cell division gene replaced is one of those specified by previous claim 32, namely one of *divIB*, *divIC*, *divIA*, *ftsA*, *ftsL*, *ftsZ* and *pbpB*. Thus claim 31 now refers to the specific cell division genes described in the description of the present application. The same amendment has also been made to claim 37.

As no written description objection was raised in respect of previous claims 32, and all of the genes specified by claims 31 and 37 are described in the description, it is submitted that claims 31 and 33-41 meet the written description requirements.

(ii) Claims 30 and 52

Claims 30 and 52 have been amended without prejudice or acquiescence and do not lack adequate written description.

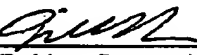
In light of the above amendments and remarks, Applicant respectfully requests withdrawal of the rejections under 35 USC § 112

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to pass this application to issue.

Applicant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 06-2375, under Order No. HO-P02186US0 from which the undersigned is authorized to draw.

Dated: November 25, 2003

Respectfully submitted,

By 
Jila Bakker, Patent Agent
Registration No.: 53,962
FULBRIGHT & JAWORSKI L.L.P.
1301 McKinney, Suite 5100
Houston, Texas 77010-3095
(713) 651-5151
(713) 651-5246 (Fax)
Attorney for Applicant